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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,362	03/31/2004	Adam Merzon	1074.001 (1668-5)	6083

23869 7590 04/06/2007
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EXAMINER

HENDERSON, MARK T

ART UNIT	PAPER NUMBER
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3722

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	04/06/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

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Office Action Summary	Application No. 10/816,362	Applicant(s) MERZON, ADAM	
	Examiner Mark T. Henderson	Art Unit 3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED OFFICE ACTION

Faxing of Responses to Office Actions

In order to reduce pendency and avoid potential delays, TC 3700 is encouraging FAXing or responses to Office Actions directly into the Group at (571) 273-8300. This practice may be used for filing papers, which require a fee by applicants who authorize charges to a PTO deposit account. Please identify the examiner and art unit at the top of your cover sheet. Papers submitted via FAX into TC 3700 will be promptly forwarded to the examiner.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 20, 2007 has been entered.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In Claims 1, lines 5-8, a first set of binders “permanently fixed at a location”, which is not disclosed in the specification. Since applicant has not disclosed the term “permanently”, or how the binders are “permanently fixed” in the specification, the examiner deems this limitation as new matter. The specification states that the binder are held “preferably” by rivets, however, it is known in the art to have rivets which are not fixed and are removable. Claim 1, also discloses the limitation of a spine having an “extreme boundary” which is also not disclosed in the specification, and is considered new matter.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, are rejected under 35 U.S.C. 102(b) as being anticipated by Lehnert (DE-4339929C1).

Lehnert discloses in Fig. 1-4, a binder arrangement comprising: a pair of covers (1 and 2) each carried by an abutting spine (3); a first binder (4 on left side') permanently fixed and carried by one of the covers (1); and a second binder (4R) permanently fixed and carried by the other cover (2); wherein the pair of covers are hingedly carried by the spine (3), and constructed with a pivoting surface that pivots 90 degrees against the spine; wherein one of the binder is offset from the other one of the binders such that the binder do not overlies each other when in a closed position (see Fig. 2); and wherein one of the binder can be spaced away from a centerline of the spine (also see Fig. 2).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5 and 25-27, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto (D467,966) in view of Lehnert.

Lepisto discloses in Attachment I, a binder arrangement comprising: a pair of covers (A and B) each hingedly carried by an abutting extreme boundary of a spine (C); each of the covers constructed with a pivoting surface that pivots 90 degrees against the spine (see Fig. 1); a first set of binders (A1) permanently fixed at a location and parallel to the spine and carried by one of the covers (A); a second set of binder (B1) permanently fixed at a location and adjacent and parallel to the spine by the other one of covers (B); wherein the binder are offset from one another and do not overlies each other when the arrangement is disposed in a closed position (see Fig. 1); and wherein the binders also include a plurality of D-shaped ring paper straightening fastening mechanisms (see Fig. 2).

However, Lepisto does not disclose: wherein the first set of binders are adjacent to the spine; wherein the one of the binders is offset relative to the other one such that one binder is paced farther away from a centerline of the spine than the other one of the binders; wherein the offset is between $\frac{1}{4}$ of an inch and $\frac{3}{4}$ of an inch; wherein the offset is $\frac{1}{2}$ of an inch.

Lehnert discloses in Fig. 2, a binder arrangement wherein a set of binders can be placed at any desirable arrangement location on the cover as desired by the end user.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lepisto's binder with a binder location that can be placed any desirable location on the cover as taught by Lehnert for providing a cover having a binder location at any point on the cover as desired by applicant.

In regards to **Claims 3-5**, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the offset at any desirable range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Therefore, it would have been obvious to construct the binder offset at any desirable range, since applicant has not disclosed the criticality of the having the offset with a particular distance range, and invention would function equally as well with any desirable offset distance.

5. Claims 4 and 5, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehnert.

Lehnert discloses a binder arrangement comprising all the elements as disclosed in Claim 1, and as set forth above. However, Lehnert does not disclose: wherein the offset is between one quarter of an inch and three-quarters of an inch; wherein the offset is about one-half an inch.

In regards to **Claims 4 and 5**, it would have been obvious to one having ordinary skill in the art at the time the invention was made to form the offset at any desirable range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. Therefore, it would have been obvious to construct the binder offset at any desirable range, since applicant has not disclosed the criticality of the having the offset with a particular distance range, and invention would function equally as well with any desirable offset distance.

6. Claims 6-9 and 21, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lehnert al in view of Zimbelman (D364,640).

Lehnert discloses a binder arrangement comprising all the elements as disclosed in Claim 1, and as set forth above. However, Lehnert does not disclose: wherein one of the binders includes a hold down page that is equipped with a releasable latch that releasably anchors the page to one of the covers; wherein the latch comprises a latch strap carried by the one of the covers and a latch receiver carried by the hold down page; wherein the latch strap and receiver comprises a hook loop and fastener that releasably secures the page to a perimeter of one of the covers.

Zimbelman discloses in Fig. 1 and 2, a binder arrangement comprising: a hold down page (A) that is equipped with a releasable latch receiver (D) that releasably anchors one of the covers (B) to the hold down page through a latch strip (C), releasably securing the page to a perimeter of one of the covers.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lehnert's binder arrangement with a hold down page as taught by Zimbleman for providing storage separators.

7. Claims 6-9 and 21, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto in view of Lehnert al and further in view of Zimbelman (D364,640).

Lepisto as modified by Lehnert discloses a binder arrangement comprising all the elements as disclosed in Claim 1, and as set forth above. However, Lepisto does not disclose: wherein one of the binders includes a hold down page that is equipped with a releasable latch that releasably anchors the page to one of the covers; wherein the latch comprises a latch strap carried by the one of the covers and a latch receiver carried by the hold down page; wherein the latch strap and receiver comprises a hook loop and fastener.

Zimbelman discloses in Fig. 1 and 2, a binder arrangement comprising: a hold down page (A) that is equipped with a releasable latch receiver (D) that releasably anchors one of the covers (B) to the hold down page through a latch strip (C).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lepisto's and Lehnert's binder arrangement with a hold down page as taught by Zimbleman for providing storage separators.

8. Claims 1 and 10-12 are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lehnert in view of Moor.

Lehnert discloses a binder arrangement comprising all the elements as disclosed in Claim 1, and as set forth above.

However, Lenert does not disclose: flexible sidewalls that include a skirt that extends along the side edges of each cover; one skirt releasably attached to the other skirt by a fastening arrangement that is elastically anchored to the spine by a stretchable gather.

Moor discloses in Fig. 1, a binder arrangement comprising: covers (12 and 14) connected to a spine (16) by a hinge; a binder; a case that includes a sidewall (20 and 22) that extends between side edges (shown in Fig. 4) of the covers that is releasably closed by a zipper (24); and a stretchable gather or connector (42) that attaches one end of the zipper to the spine (see Fig. 1).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lehnert's binder arrangement with a cover having flexible sidewalls, and skirts and a stretchable gather as taught by Moor for providing a binder which will be completely closed from outside elements.

9. Claims 1 and 10-12, and 22 -24, as best understood, are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto as modified by Lehnert in view of Moor.

Lepisto as modified by Lehnert discloses a binder arrangement comprising all the elements as disclosed in Claim 1, and as set forth above.

However, Lepisto does not disclose: flexible sidewalls that include a skirt that extends along the side edges of each cover; one skirt releasably attached to the other skirt by a fastening arrangement that is elastically anchored to the spine by a stretchable gather.

Moor discloses in Fig. 1, a binder arrangement comprising: covers (12 and 14) connected to a spine (16) by a hinge; a binder; a case that includes a sidewall (20 and 22) that extends between side edges (shown in Fig. 4) of the covers that is releasably closed by a zipper (24); and a stretchable, elastic material gather or connector (42, flexible expansion panel) that attaches one end of the zipper to the spine (see Fig. 1). It is inherent that the flexible gather in the Moor reference is configured to allow extension or enlargement beyond limits of strain from other parts, and to resume its original shape when the deforming force is removed.

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lepisto's and Lehnert's binder arrangement with a cover having flexible sidewalls, and skirts and a stretchable gather as taught by Moor for providing a binder which will be completely closed from outside elements.

10. Claims 13-19, as best understood, are finally rejected under 35 U.S.C. 103(a) as being unpatentable over Lepisto in view of Lehnert and further in view of Welch (6,209,917).

Lehnert discloses a binder arrangement comprising all the elements as disclosed in Claim 1, and as set forth above.

However, Lehnert does not disclose: wherein each hinge comprises a plurality of scores slits formed in the interior surface of the board; wherein the board is comprised of a fibrous material, or kraftboard; wherein the scores define a region that is compressed to a thickness less than the surrounding thickness of the board; and wherein the spine can include any desirable number of scored hinges.

Welch discloses a binder arrangement comprising: wherein the spine and covers are defined by a board that includes spaced apart integrally formed hinges (45), wherein each hinge comprises a plurality of scores slits formed in the interior surface of the board (Col. 6, lines 1-30, and seen in Fig. 6); wherein the board is comprised of a fibrous material, or kraftboard (abstract); wherein the scores define a region that is compressed to a thickness less than the surrounding thickness of the board (see Fig. 6); and wherein the spine can include any desirable number of scored hinges (Col. 6, lines 15-20).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lepisto's and Lehnert's binder arrangement with a cover having flexible sidewalls, and skirts and a stretchable gather as taught by Welch for providing a binder which will be completely closed from outside elements.

11. Claim 20, as best understood, is rejected under 35 U.S.C. 103(a) as being unpatentable over Lehnert in view of Delaire et al (3,454,694).

Lehnert discloses a binder arrangement comprising: a first binder (4 on left side') carried by one of the covers (1); and a second binder (4 on right side) carried by the other cover (2); wherein the pair of covers are hingedly carried by the spine (3); wherein one of the binder can be spaced away from a centerline of the spine (also see Fig. 2).

However, Lehnert does not disclose: a board of one-piece, unitary and homogenous construction that has a pair of hinges defined by a plurality of scores formed in a surface of the

board with one of the hinges distinguishing the board into a first cover, a spine, and a second cover.

Delaire et al disclose in Fig. 8 and 9 and in Attachment II, a board (48) of one-piece, unitary and homogenous construction that has a pair of hinges (98 and 102) each defined by a plurality of scores (see Fig. 8) distinguishing the board (96) into a first cover (96a), spine (110) and a second cover (96b).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lehnert's binder with a one-piece cover board having a pair of scored hinges as taught by Delaire et al for providing cover having increased pivoting flexibility.

Response to Arguments

Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

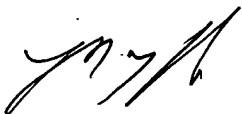
Lepisto is now used to disclose a binder having permanently fixed parallel binder mechanism located on the covers. Lehnert is now used to disclose that the binder mechanisms can be located at other positions. Moor is now used to disclose a stretchable gather. Delaire et al is now used to disclose a homogenous binder arrangement having two covers separated by a spine through the use of scored hinges.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Veyron et al, Gerch, Moor, McMillan, Butchma, Busam et al, Pinzaui disclose similar binder arrangements.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Henderson whose telephone number is (571) 272-4477, and informal fax number is (571) 273-4477. The examiner can be reached on Monday-Friday from 9:00AM to 3:45PM. If attempts to reach the examiner by telephone are unsuccessful, the Examiner Supervisor, Monica Carter, can be reached at (571) 272-4475. The formal fax number for TC 3700 is (571) 273-8300.



MTH

March 29, 2007



MONICA CARTER
SUPERVISORY PATENT EXAMINER